

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Ronald R. Seibel
Petitioner-Appellant.

v.

Scott County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-82-0877
Parcel No. 721601104B

On March 5, 2012, the above captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Ronald R. Seibel was self-represented and requested a written consideration. Assistant County Attorney Robert Cusack represented the Scott County Board of Review. The Appeal Board having reviewed the record, and being fully advised, finds:

Findings of Fact

Ronald R. Seibel is the owner of a residential, single-family property located at 11821 Coon Hunters Road, Blue Grass, Iowa. The property is a one-story, frame home built in 1979, has 1364 square feet of total living area, and a 528 square-foot attached garage. The property has a full, walk-out basement with 869 square feet of rec-room quality finish. Additionally, the property is improved with a 672 square-foot detached garage and a 336 square-foot attached, metal carport built in 1983; a 110 square-foot open porch; a 192 square-foot three-season porch; two wood decks totaling 508 square feet; and a 561 square-foot, brick patio. The site is 2.01 acres and has a private pond.

Seibel protested to the Scott County Board of Review regarding the 2011 assessment of \$271,110, which was allocated as follows: \$100,000 in land value and \$171,110 in improvement value.

Seibel's claims were based on the following grounds: 1) that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a); and 2) that the property was assessed for more than the value authorized by law under section 441.37(1)(b). Seibel asserted the correct value was \$219,000, allocated as \$50,250 in land value and \$168,750 in improvement value.

The Board of Review granted the protest, in part, reducing the total assessment to \$254,670, allocated as \$100,000 in land value and \$154,670 in improvement value.

Seibel then appealed to this Board reasserting his claims.

On the Board of Review petition, Seibel listed five properties as equity comparables. This included the properties' legal descriptions and assessed values. There is no other information in the record regarding these properties. Therefore, we are unable to determine if the properties are similar for equity comparison. Essentially, the majority of Seibel's evidence is focused on the claim of over-assessment.

Seibel submitted six, one-page multiple listing sheets of sold properties, as well as a single-page, assessment summary of a property that has not transferred since 1998 to support his claim of over-assessment. Reviewing these properties we do not find them comparable and give them no consideration.

Seibel also submitted an appraisal he commissioned; he previously had provided the Board of Review with this appraisal as well. Six pages of an eleven-page appraisal were provided. It was completed by Jason M. Purcell of DataSource Appraisals, Bettendorf, Iowa. The pages that appear to be missing, based on the attachment list supplied by Purcell, include at least the invoice, cover page, and sketch addendum. We do not consider these pages to be so pertinent that the appraisal cannot be understood without them. The appraisal has an inspection and effective date of April 1, 2011, and concluded a \$219,000 opinion of value.

Purcell developed only the sales approach to value. He did, however, opine a site value of \$50,250 based on the allocation method. He considered three sales and two active listings in his sales comparison analysis. All are located within 0.06 to 2.57 miles of the subject property. All five properties have similar ages, ranging from thirty-four to thirty-nine years of age, compared to the subject being thirty-two years of age. They range in living area from 1184 to 1664 square feet. And all have reasonably comparable basement finish to the subject property. Purcell made adjustments to the properties for differences including site size, quality, condition, and improvement features.

The three sales have unadjusted sale prices of \$175,500 to \$192,000, and after adjustments range from \$208,400 to \$229,800. All three sales occurred between April and December 2010.

The two listings have unadjusted list prices of \$189,900 and \$225,000. After adjustments, these properties have indicated values of \$215,502 and \$221,900. Although the listings are similar and demonstrate the spring 2011 active market, we do not find them as persuasive as the sales, which occurred prior to the assessment date in question.

Pictures of the sales and listings were not included in the appraisal, however based solely on the data presented these properties appear to be very comparable to the subject property in style, age, size and location. Based on the comparable map, three of the properties (including two of the sales) appear to be located in the subject's immediate subdivision.

While the Board of Review did not provide a specific critique of the Purcell appraisal, it appears it does not believe the pond situated on the subject site was correctly considered in the valuation of the property. The Board provided an aerial photograph of the subject property that clearly shows a large pond to the rear of the improvements. We agree, based on the aerial photo, that a pond of this nature would likely add value to a site and its improvements. And, we agree, Purcell failed to properly address this noticeable feature to the site and improvements in his appraisal and subsequent

valuation. However, we also note, the Board of Review's critique falls short in supporting its own assertions that the pond adds an "extra acre" worth of value.

The Board of Review appears to have considered the fact that a pond was on the property in its hearings. We have some concern that the hearing(s) also took place without permitting Seibel an opportunity to participate. Seibel was originally scheduled for a May 13 hearing, however he was unable to make it and called to have it rescheduled. It was rescheduled for May 31. The Board of Review's May 13 minutes indicate it considered Seibel's petition anyway: "Board reviewed petition and spreadsheet done by Lew. Change basement finish and quality, change condition of home to below normal." We assume the spreadsheet referenced by the Board of Review is the same spreadsheet in the certified record, titled "Comparables 11-030," which replicates the sales considered in Purcell's appraisal. The spreadsheet includes assessment information for each property such as grade; physical/functional obsolescence applied in the assessments; the breakdown of land, improvement, and total assessed values; and a sales ratio. It is unknown if Seibel was provided a copy of Lew's spreadsheet at any time during the Board of Review process.

The Board of Review's May 31 minutes indicate Purcell offered to come and talk to the Board of Review; however, it is unknown if he was present to offer testimony to the Board of Review. There is a final note regarding this hearing which simply states, "Board to review this when they look at ponds." We assume they are referencing the Purcell appraisal as an item to review.

Finally, it appears the Board of Review last met regarding the subject property on June 28, 2011. The minutes state, "Board reviewed petition and appraisal, along with how a pond affects value of the assessment. Stayed with the same changes made on 5/13/11."¹ We are troubled by these statements. There is virtually nothing in the record that would indicate what the Board of Review relied on when they state they reviewed "how a pond affects value." The only reference we are able to

¹ We note these changes occurred prior to an actual hearing with Seibel.

find in the record is a note on the property record card which states, "explained...that parcels with ponds needed to have an extra acre used in the site value based on sales." It is unclear to whom this explanation was provided, what data was considered, or what sales are referenced. There are no site sales in the record to support a specific adjustment for a pond. And, again, there is no indication this information was provided to Siebel for consideration during the protest process.

Lew's spreadsheet provides the assessed value for the first and each remaining acre for the subject site and the five properties considered by Purcell as comparable. The subject site has both acres assessed at \$50,000 each, for a total site value of \$100,000. Four of the five comparables have the first acre assessed at \$40,000 per acre, with one having the first acre assessed at \$50,000 similar to the subject. There is no explanation for the differences in site values for the first acres.

The properties all have less than two acre sites. The remaining portions of their sites, over the first acre, are assessed between \$4000 and \$5000 per acre. We do not believe it is reasonable that a 0.50 acre pond (more or less) would increase the value of the second acre by as much as ten times that of a second acre which does not feature a pond. Furthermore, if this assertion is supported by sales, as noted on the property record card, it would have been prudent to include them given the significant increase in value attributed to this single feature.

While we agree a pond area may be considered attractive and enhance the value of a site, we do not understand the described methodology of simply adding "an extra acre" to the site value. And again, if this valuation was based on sales, as it is noted, it would have been prudent to provide those sales to the Board of Review, Seibel, and this Board for consideration.

Ultimately, we find Lew's spreadsheet uninformative. It provides the same information as the Purcell appraisal but lacks adjustments or analysis. The spreadsheet has a note that states the subject pond is 0.5 acres more or less. And, that Purcell's appraisal notes the ponds existence but does not adjust for this feature. Additionally, the spreadsheet indicates the second listing considered in the

Purcell appraisal, located at 8125 116th Street, features an in-ground swimming pool and a hot tub.²

This also was not mentioned in the Purcell appraisal. We will take these omissions into consideration.

Lastly, the Board of Review commissioned its own appraisal of the subject property. The appraisal was completed by Carol L. Beeks of Beeks Appraisal, Le Claire, Iowa. The effective date of the appraisal is January 1, 2011, and the property was inspected on February 15, 2012. Beeks concluded a final market value of \$257,000. Like Purcell, Beeks only developed the sales comparison approach to value.

Beeks included five properties that sold between May and December 2010. Only one sale, 19 Sandpiper Drive, was also considered by Purcell. Beeks' unadjusted sales prices range from \$192,000 to \$340,000. They are all one-story homes, but two are much newer than the subject property with actual ages of nine and seventeen compared to the subject's actual age of thirty-two.³ Additionally, two sales are situated on eleven-acre sites compared to the subject's 2.01-acre site; all of the sales are larger with three sales over 1750 square feet of above grade living area compared to the subjects above grade living area of 1364 square feet. Lastly, we note that Beeks' comparables are located farther from the subject property than those used in Purcell's appraisal; roughly two-and-a-half miles to fifteen miles away. The only sale Beeks offers that is within one mile of the subject property is 19 Sandpiper Drive. In short, we consider Purcell's comparables to be much more similar to the subject property and more proximate than those selected by Beeks.

Beeks selected three sales that had ponds. However, two of those properties are situated on eleven-acre sites. It is unclear if their ponds are near the improvements or add similar value as the subject pond would due to the significant difference in site sizes. The third sale with a pond is the newest property (nine years actual age) and located the farthest from the subject (fifteen miles). For

² We note for assessment purposes a hot tub would be considered personal property.

³ Beeks reports an actual age of thirty-three, however that is incorrectly based on her inspection date and not the effective date of her report.

the sales that lack ponds, Beeks makes an upward \$26,000 adjustment. Beeks does not explain how she arrived at this adjustment.

We agree a pond like the subject's, could reasonably increase the marketability and value of a property. However, we find it difficult to believe the increase would be roughly \$25,000 to \$50,000 as asserted by Beeks and the Board of Review. We consider Purcell's appraisal to be the most reliable as it offers the most similar properties for comparison, as well as the most proximate. Beeks' comparables are either on larger sites, have larger living areas, are newer homes, or are located farther from the subject. As such, we find Purcell's appraisal to be the best evidence in the record regarding the market value of the subject property.

However, we also note that Purcell failed to comment on the subject's pond, which we do believe could contribute to value. Taking this omission into consideration, we believe the upper end of Purcell's adjusted range of value, \$229,800, would more reasonably reflect this amenity.

Based on the foregoing, we find sufficient evidence has been provided to demonstrate the subject property is over-assessed.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment*

Appeal Bd., 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). "To determine whether other properties are sufficiently comparable to be used as a basis for ascertaining market value under the comparable-sales approach, [the Supreme Court] has adopted the rule that the conditions with respect to the other land must be 'similar' to the property being assessed." *Soifer v. Floyd County Bd. of Review*, 759 N.W.2d 775, 783 (Iowa 2009). "Similar does not mean identical, but having a resemblance; and property may be similar . . . though each possess various points of difference." *Id.* Determining comparability of properties is left to the "sound discretion" of the trier of fact. *Id.* Consideration should be given to size, use, location, and character, as well as the nature and timing of the sale. *Id.* This Board is "free to give no weight to proffered evidence of comparable sales which it finds not to be reflective of market value." *Heritage Cablevision v. Board of Review of City of Mason City*, 457 N.W.2d 594, 598 (Iowa 1990). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Both Seibel and the Board of Review provided appraisals in support of their position. We find the Purcell appraisal submitted by Seibel to be more convincing, as its comparables are the most similar and proximate to the subject property. However, we believe Purcell failed to properly

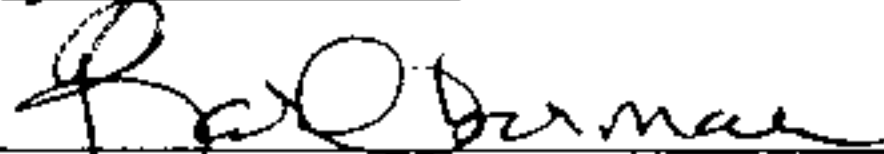
report and account for the subject's significant pond feature, which we believe would reasonably add value to the property. As such, in lieu of accepting Purcells reconciled value of \$219,000, we believe the upper end of his range at \$229,800, would more accurately account for the increased appeal of the subject property and its site features.


We find the evidence supports the claim that the property is assessed for more than the value authorized by Iowa Code section 441.21.

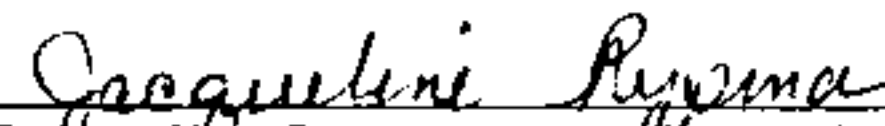
THE APPEAL BOARD ORDERS the assessment of the Ronald R. Seibel property located at 11821 Coon Hunters Road, Blue Grass, Iowa, be modified to a total value of \$229,800, as of January 1, 2011.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Scott County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

Dated this 4 day of May, 2012.


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>5-4</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u><i>[Handwritten Signature]</i></u>